



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

**Legislative Analysis**

**Community Outreach, Safety and Healthcare  
Administration Committee**

Wednesday, October 12, 2005  
2:00 PM  
Commission Chamber

Charles Anderson, CPA  
Commission Auditor

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**Miami-Dade County Board of County Commissioners  
Office of the Commission Auditor**

**Legislative Analysis**

**Community Outreach, Safety & Healthcare Committee  
Meeting Agenda**

**Wednesday, October 12, 2005**

Written analyses for the below listed items are attached for your consideration in this Legislative Analysis.

**Item Number(s)**

2(A) & 2(A) Substitute	2(E)
3(A)	

If you require further analysis of these or any other agenda items, please contact Guillermo Cuadra, Chief Legislative Analyst, at (305) 375-5469.

Acknowledgements--Analyses prepared by:  
Elizabeth Owens, Legislative Analyst  
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**LEGISLATIVE ANALYSIS AND ECONOMIC IMPACT STATEMENT**

*ORDINANCE RELATING TO THE ELECTRONIC CONTROL DEVICES.*

Commissioners Dr. Barbara Carey-Shuler, Sally Heyman,  
Barbara J. Jordan, Dorrin Rolle and Katy Sorenson

**I. SUMMARY**

This ordinance creates within Chapter 21, Article III of the County Code, a division which deals specifically with Electronic Control Devices. The changes in the County Code would:

- Establish a mandatory five-day waiting period for those wishing to purchase Electronic Control Devices.
- Require a background check of those wishing to purchase such devices.
- Require potential buyers to attend a training course offered by the manufacturer or certified trainer before purchasing the device.
- Make it illegal for convicted felons to purchase or possess these devices.
- Make it illegal to sale these devices to anyone less than 18 years of age.

**II. PRESENT SITUATION**

Electronic control devices, or stun guns, are being purchased and used by law enforcement and police departments across the country. However, the leading manufacturer of these devices has recently begun marketing to civilians.

In July 2005, Taser International, which has a dominate share of the stun gun market, chose Miami to launch its new marketing campaign to civilians. While the devices are banned in eight states, Florida has no law barring their sale to civilians and no state law exists for background checks or waiting periods for those wishing to purchase these devices. In August 2005, the City of Sweetwater passed a resolution requiring background checks before citizens could be purchase the devices (see attachment).

Many police officials have expressed concern that these devices could be used in the commission of crimes.

Taser International estimates that 100,000 of the devices have already been sold to civilians nation-wide. The models run from \$400 - \$1,000, and are billed as being as powerful as the devices that police carry. In civilian models the dart-tipped wires, which deliver the debilitating electronic pulses, are only 15-feet long. In police-issue devices, the wires are 25 feet long.

Florida statute **790.23 (1)** bars felons from possessing electronic devices or weapons in the state of Florida.

**COSHAC ITEM 2(A), & 2(A) Sub.**  
**October 12, 2005**

While numerous bills were proposed during the last state legislative session that would limit the use or sale of these devices, all of those measures died before the close of the legislative session.

### **III. POLICY CHANGE AND IMPLICATION**

This ordinance would add Division 3 to Article III of Chapter 21 of the Code of Miami-Dade County relating to the sale, purchase and possession of Electronic Control Devices.

- **Sec. 21-20.21** creates a five (5) day waiting period on the sale of the electronic control devices. It requires criminal background checks on the purchasers of these devices, and gives law enforcement officers the authority to enforce the provisions of this section. Holders of a concealed weapons permit, certified officers and correctional probation officers are **exempt** from this provision.
- **Sec. 21-20.22** requires purchasers of these devices to obtain training from the manufacturer of the devices or from a certified trainer prior to buying the device.
- **Sec. 21-20.23** sets the legal age of purchasing said devices at 18, and bars convicted felons or those under the influence from purchasing these devices.
- **Sec. 21-20.24** makes it illegal to possess or purchase these devices unless the person has met requirements of this section of the Code. **Felons** are also barred from possessing these devices.
- **The Penalty** for violating this section of the Code is up to \$500 and/or up to 60 days imprisonment in County jail.

### **IV. ECONOMIC IMPACT**

This would have no economic impact on Miami-Dade County.

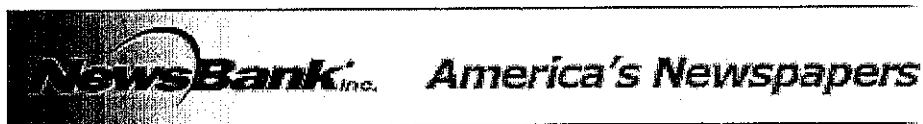
### **V. COMMENTS AND QUESTIONS**

Attachments:

*"Taser Pushes Its Stun Guns for Public," Miami Herald, July 24, 2005.*

*"Officials Want to Lobby State for Taser Regulation," Miami Herald, August 4, 2005.*

*"Stun Gun Used in Home Invasion," Miami Herald, August 2, 2005,*



Paper: Miami Herald, The (FL)  
Title: TASER PUSHES ITS STUN GUNS FOR PUBLIC  
Date: July 24, 2005

The manufacturer of the stun guns cops carry on their belts is launching an aggressive marketing campaign to boost sales of the weapon to the public, a move police fear will put a dangerous and largely unregulated weapon on the streets.

The city chosen by **Taser** International executives to launch the new sales blitz: Miami, beginning Tuesday.

Sales of the weapon - though banned in eight states - are legal in Florida, where background checks on buyers are not required by law. Business is already brisk at local stores.

Law enforcement authorities worry that the so-called **Taser**, which can paralyze its victim temporarily, will get in the hands of criminals.

"If they start some kind of a campaign to sell these things by the hundreds, clearly the bad guys are going to get them," said Miami Police Chief John Timoney.

Although **Taser** International, based in Scottsdale, Ariz., plans a splashy show for the media on Tuesday at the Hyatt Regency in downtown Miami, local gun dealers and pawn brokers say they have been selling the weapons over the counter for at least a year.

And **Taser** has for several years sold it for "home security" through its website. The company estimates 100,000 civilian models have sold nationwide. They declined to talk about sales projections.

"It's a popular item," said Javier Alonso, owner of Miami Police Supply, noting he sells about 25 Tasers a month to the public.

Among his biggest customers: security guards who are not permitted to carry firearms. Others include women who want protection but are uncomfortable carrying a gun.

The models, which run from \$400 to \$1,000, are as powerful as the Tasers police officers carry. Both work by firing dart-tipped wires that deliver an electrical charge that temporarily short-circuits the body's central nervous system. In the civilian models, the wires are only 15 feet long; law enforcement Tasers have 25-foot wires.

#### SHARED CONCERNS

Police chiefs in Broward County, where the **Taser** marketing push is rolling out in two gun stores, share Timoney's concerns.

"Tasers are not only going to make police officers' jobs more dangerous, but the illegal use of these types of weapons against innocent citizens and to commit violent crimes is a paramount concern," said Fort Lauderdale Police Chief Bruce Roberts.

**Taser** International president Tom Smith counters that his device is not as dangerous as the other weapons police officers face every day. He noted that guns, Mace, pepper spray and batons are legal to buy.

"If somebody has an ill-intent, we need to focus on the intent," he said.

Smith said he has lobbied state legislatures to prohibit the sale of Tasers to children and felons.

Two Florida senators wanted to go further this year when they proposed several bills that would have placed limits on the use of Tasers. One would have banned anyone but police from using the stun guns. The bills, sponsored by Sen. Gary Siplin, D-Orlando, and Sen. Tony Hill, D-Jacksonville, died without action in the final days of the legislative session.

Milton Hirsch, an expert in Florida legal procedure, said that state law could allow criminals who use Tasers to avoid harsher prison sentences.

One example: The 10-20-life sentence. The law dictates that the punishment increases whenever a firearm is used in the commission of a crime. The penalty is 10 years for possession of a gun; 20 years if you use the gun; and life if you shoot someone with the gun.

Hirsch said that someone who robs a 7-Eleven with a **Taser** wouldn't trigger the tougher penalties because it is not considered a firearm.

"If we're going to have Tasers out there available to the general public, then we should have the same type of sanctions and limitations on them," he said.

That's what Illinois lawmakers sought to do in June. The state became the first in the country to pass a law treating the sale of Tasers like firearms, according to published reports. Buyers of Tasers and other stun guns there have to obtain a Firearm Owner's Identification Card and submit to background checks. Illinois also mandates a 24-hour waiting period.

Smith said his company is requiring dealers who sell the new X26c **Taser** to run criminal checks on buyers through **Taser's** website. He wants the same rules for older models.

#### NO CHECKS

But Alonso, owner of Miami Gun Supply, says he has been selling the X26c, for months and stocking older, larger models for more than a year, without running any kind of checks. He was unaware of any company requirement to run checks.

"There's no background check because it's a non-lethal device and it's not regulated by [the federal Bureau of] Alcohol, Tobacco and Firearms," he said. "Any person off the street, of legal age, of course, can purchase the **Taser**. Honestly, I don't know if this particular item is regulated by age like BB guns, but we only sell them to people over 18 years age."

Several other gun dealers contacted by The Herald also said they were selling the weapons without running background checks. One, however, said he runs background checks for all models and sends the names of buyers to **Taser**.

Smith said he was disappointed and hopes the company will remedy the situation soon.

**Taser** keeps track of the names of buyers on its website and asks retail buyers to voluntarily register their weapons with the company. Each time a **Taser** is fired, it releases a handful of confetti-like tags that have a number that can be traced back to the individual stun gun.

Beyond the concerns of police and prosecutors, the **Taser's** safety record has come under scrutiny.

The Securities and Exchange Commission is inquiring into claims **Taser** exaggerated its safety studies.

Another issue: More than 80 people have died around the country after being shocked by police Tasers.

The company says those deaths were caused by other factors - mainly the effects of illegal drugs such as cocaine and PCP. Except for a few cases, the finding of medical examiners have supported the company's claims.

#### LIFE-SAVING TOOL

At least 7,000 police agencies around the world issue Tasers, including many in South Florida, the company says. Police hail the device as a life-saving tool that gives them an option besides shooting and killing someone who is violent or dangerous.

Amnesty International has called for a ban on civilian **Taser** sales.

"We feel that the safety concerns that we have about the models used by police are compounded when you have a public that doesn't receive anywhere near the type of training that police receive," said Amnesty's Edward Jackson.

**Taser** counters there is no evidence that shows the stun gun causes anyone any lasting damage. But Smith says **Taser** is open to more testing.

Smith remains upbeat about the new civilian model.

"We're getting a lot more interest from the person who maybe isn't comfortable with a firearm but is interested in something for self-defense," he said.

Police hardly share the same opinion.

"Take a look around at who's carrying guns on the street. It's not just law-abiding citizens. So you've got to assume, somewhere along the line, someone's going to be using a **Taser** for purposes not envisioned by **Taser**," said Miami Lt. David Magnusson, a longtime undercover officer now in charge of patrol support. "That's an easy way to rob somebody."

Herald staff writer Wanda DeMarzo contributed to this report.

Herald.com: Should tasers be available for public purchase? Vote at today's extras

[ILLUSTRATIONS=] photo: Javier Alonso shows off **Taser** X26 (a); graphic: **Taser** guns (see microfilm)

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*Section: Front*

*Page: 1A*

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Paper: Miami Herald, The (FL)  
Title: OFFICIALS WANT TO LOBBY STATE FOR TASER REGULATION  
Date: August 4, 2005

Sweetwater officials said Monday they will urge state legislators to regulate **Taser** guns within their city.

Mayor Manny Maroño and city commissioners agreed to draft a resolution aimed at regulating the weapon using background checks. The issue is of concern to the city since Arizona-based **Taser** International launched a sales campaign aimed at the general public in Miami last week.

"I am in agreement with regulating them, 100 percent," said Commission President Ariel Abelairas. "A **Taser** can take you down and immobilize you. It's frightening. We have to do something about this."

Police Chief Roberto Fulgueira believes that allowing unrestricted sales of the weapon will make it easier for them to fall into the hands of criminals.

"A **Taser** in the wrong hands can be a dangerous weapon and could cause harm to another individual," Fulgueira said. "A criminal could use it to hold up a 7-Eleven, abduct someone or take a gun away from one of my police officers. The endless possibilities could be devastating."

An incident already occurred in Fort Lauderdale on Monday afternoon, where police say three robbers used a stun gun to subdue two men and a dog during a home invasion.

The robbers made off with wallets full of cash and credit cards.

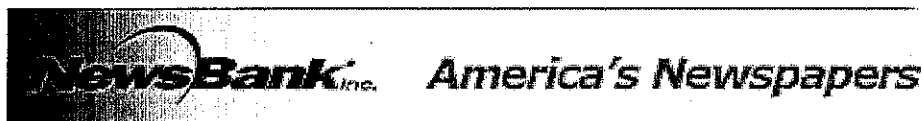
"I don't know what we can do, but I do know that we have an obligation to protect our residents and we must take action," Maroño said.

The commission will express their concerns about Tasers within their city limits at the Miami-Dade County League of Cities at 7 tonight at the Doubletree Hotel, 2649 S. Bayshore Dr.

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Paper: Miami Herald, The (FL)  
Title: STUN GUN USED IN HOME INVASION  
Date: August 2, 2005

Three robbers used a stun gun to subdue two men and a dog in Fort Lauderdale during a home-invasion robbery Monday afternoon, according to police and a witness.

The robbers put pistols to the heads of the two men and demanded they get on the floor, said Ken Russo, 38, who said he owns the building in the 500 block of Southwest 13th Avenue where the crime took place.

When the two men didn't drop to the floor right away, the robbers stunned them repeatedly. They also used a stun gun on Maggie, a Jack Russell terrier that was inside the home.

The robbers made off with wallets full of cash and credit cards. They escaped in a white Toyota Camry with no hubcaps, police told Herald news partner WFOR CBS-4.

Police were called to the scene, but on Monday would not confirm details of Russo's account.

The two victims, whose names were not released, were not seriously injured and declined to see a doctor, said Russo.

Russo, who said he was not present when the robbery occurred, said the two men, including one of his tenants, walked into the unit when three male robbers, who had apparently waited in their car in the parking lot, barged in after them.

Russo said the two men told him they did not know who the robbers were.

"I never had a problem here," Russo said. "I usually keep the doors open."

Police, who have increasingly employed stun guns as a less-lethal means of force, have expressed concern that criminals would start using them, especially since Taser International introduced a civilian version of its stun gun.

Sales of the weapon, while banned in eight states, are legal in Florida, where background checks are not required by law. It was not known which type of stun gun was used in Monday's attack in Fort Lauderdale.

In the West Miami-Dade city of Sweetwater, commissioners agreed Monday night to ask city staff to draft a resolution expressing concern about the lack of regulation on Tasers that are sold to the general public. "We're concerned because a Taser in the wrong hands could cause harm to another individual," Police Chief Roberto Fulgueira said. "A convicted felon, or a rapist or a child molester could essentially use it to commit another act."

"We're just exploring options," Sweetwater Mayor Manny Maroño said before Monday's meeting. "I'm gathering information on what I can or can't do. I don't necessarily want to ban this weapon from the city. I would just like to regulate them because this could easily become a tool to commit crimes."

Herald staff researcher Scott Hutchinson contributed to this report.

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**LEGISLATIVE ANALYSIS**

*RESOLUTION URGING THE FLORIDA LEGISLATURE TO REQUIRE NURSING HOMES AND ASSISTED LIVING FACILITIES TO SEARCH THE SEXUAL OFFENDER AND SEXUAL PREDATOR REGISTRIES AND REQUIRE CRIMINAL BACKGROUND CHECKS PRIOR TO ADMITTING NEW RESIDENTS; URGING THE FLORIDA LEGISLATURE TO ESTABLISH CRITERIA FOR REJECTING PROSPECTIVE RESIDENTS DUE TO CRIMINAL CONVICTIONS*

Commissioner Rebeca Sosa

**I. SUMMARY**

This Resolution

1. urges the Florida Legislature to introduce legislation requiring new residents of nursing homes and assisted living facilities in the state of Florida to undergo background checks before admission;
2. urges the Florida Legislature to introduce legislation establishing procedures for denying an applicant's admittance to nursing homes or assisted living facilities based on a criminal conviction;
3. directs the County's state lobbyist to advocate for such legislation and the Office of Intergovernmental Affairs to include item in the 2006 legislative package; and
4. directs the Clerk of the Board to transmit certified copy of this resolution to the chair and members of the Miami-Dade County Legislative Delegation.

**II. PRESENT SITUATION**

Currently, state law requires sexual offenders and sexual predators to register with the Florida Department of Law Enforcement and provide their living address; however, there is no legislation that deals specifically with sexual offenders or predators in nursing homes or assisted living facilities.

In a recent national study, Florida is listed as having a total of 58 registered sex offenders residing in nursing homes, ranking them as number 5 among states with registered sex offenders (*Predators in America's Nursing Homes*, A Perfect Cause, 2005).

**III. POLICY CHANGE AND IMPLICATION**

The purpose of this resolution is to communicate to Florida legislature the concerns of Miami-Dade County and to direct County staff to coordinate lobbying efforts in hopes that legislation will be enacted to protect one of society's most vulnerable groups, individuals residing in nursing homes and assisted living facilities.

**IV. ECONOMIC IMPACT**

None.

**V. COMMENTS AND QUESTIONS**

During the 2005 Florida Legislative Session, Senator Durell Peaden sponsored SB 524 requiring nursing homes and assisted living facilities to search sexual predator and sexual offender registries before admitting new residents. SB 524 died at committee level and as of this date no similar bill has been introduced.

**COSHAC ITEM 3(A)**

**October 12, 2005**

**LEGISLATIVE ANALYSIS AND ECONOMIC IMPACT STATEMENT**

*RESOLUTION FOR AN INTER-LOCAL AGREEMENT WITH MIAMI-DADE COUNTY  
PUBLIC SCHOOLS.*

Corrections and Rehabilitation Department

**I. SUMMARY**

This item approves an inter-local agreement with Miami-Dade County Public Schools/Lindsey Hopkins Technical Educational Center (MDCPS/LHTEC) to provide academic educational courses to inmates incarcerated in the Miami-Dade Corrections and Rehabilitation Department facilities for the 2005-2006 academic year. MDCPS/LHTEC will also provide career and technical training courses for a maximum of 375 contact hours per course, per trimester. The cost for the career/technical training is not to exceed \$400,000.

**II. PRESENT SITUATION**

Currently, inmates detained in Miami-Dade County correctional facilities can make use of various services provided by MDCPS/LHTEC, including studying Adult Basic Education, English for speakers of other languages, General Education Development (GED) preparation, and a slate of vocational training courses detailed in the Manager's Memo.

**III. POLICY CHANGE AND IMPLICATION**

This item renews a standard agreement with the MDCPS and will expire on September 30, 2006.

**IV. ECONOMIC IMPACT**

The amount of tuition payment for the year will not exceed \$400,000. These funds will come from the Inmate Welfare Fund.

**V. COMMENTS AND QUESTIONS**

None.